

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRITTANY M. DUDAS
15610 Madison Avenue, Apt. 206
Lakewood, Ohio 44107

Plaintiff

v.

CITY OF BAY VILLAGE POLICE
OFFICER GREGORY ENGEL
In his individual capacity
28000 Wolf Road
Bay Village, Ohio 44140

And

CITY OF BAY VILLAGE POLICE
DEPARTMENT
2800 Wolf Road
Bay Village, Ohio 44140

Defendants

CASE NO.

JUDGE

COMPLAINT

JURY DEMAND ENDORSED
HEREON

PRAECIPE FOR SERVICE

Parties

1. Plaintiff Brittany M. Dudas is a natural United States citizen who resides in Cuyahoga County, Ohio.
2. Defendant City of Bay Village Police Department is local public entity or agency under the laws of the State of Ohio.
3. At all relevant times, Defendant City of Bay Village Police Officer Gregory Engel (hereafter referred to as “Officer Engel” or “Defendant Gregory Engel”) was an employee of Defendant City of Bay Village Police Department and was acting under color of state law with the full authority of the City of Bay Village Police Department in the City of Bay Village, County of Cuyahoga, and State of Ohio.

Jurisdiction and Venue

4. Plaintiff incorporates the preceding paragraphs of this complaint as if fully rewritten herein.
5. This Court has original jurisdiction pursuant to 28 USC § 1331 and 28 U.S.C. § 1343 because this is a civil action arising under laws of the United States specifically 42 USC § 1983 et seq.
6. This Court has supplemental jurisdiction of the state claims presented pursuant to 28 USC § 1367 because the state court claims are so related to claims in this action of which this Court has original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

7. Venue is proper in this district pursuant to 28 USC § 1391 (b) because it is a judicial district where a defendant resides, and a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

Facts Common to All Causes of Action

8. On or about November 3, 2017, the Plaintiff, Brittany M. Dudas was living at her mother's residence at 458 Columbia Road, Bay Village, Ohio.
9. At approximately 2:00 a.m. on November 3, 2017, Officer Engel was patrolling pursuant to his duties as a City of Bay Village Police Officer and he went to the 458 Columbia Road, Bay Village address and pounded on the front door of the residence until Plaintiff opened the door, and stepped outside.
10. Once Plaintiff was outside, Officer Engel asked Plaintiff if she knew where Robert Lebron and Daniel Capp were located. Plaintiff said "no" and requested that Officer Engel leave her property. She further told Officer Engel that it was late and that her young niece and nephew were sleeping.
11. As Plaintiff started to turn around to walk back into her residence, Officer Engel grabbed Plaintiff's arm, dragged Plaintiff from the doorway, threw Plaintiff on the ground, climbed on top of her, placed handcuffs on her wrists behind her back, and then brought her to her feet and put her in the back of his City of Bay Village Police assigned police car.
12. During the physical encounter with Officer Engel, Plaintiff suffered a deep laceration on her knee, a contusion on her knee, bruises on the palms of her hands, and a sprained Achilles tendon.

13. Once Plaintiff was placed in the police cruiser, Officer Engel returned to the front door of the residence at 458 Columbia Road, Bay Village, Ohio and proceeded to again pound on the door until everyone in the home was awakened. Officer Engel then requested to search the premises for Mr. Lebron and Mr. Capp. After consent was provided to Officer Engel, a search confirmed that Mr. Lebron and Mr. Capp were not located at the 458 Columbia Road residence.
14. Shortly after the search of the 458 Columbia Road, Bay Village residence was completed, Officer Engel released Plaintiff from her handcuffs and unlawful detention from the back of the police cruiser.
15. The next morning, Plaintiff still in pain from her injuries sustained by Officer Engel's unlawful attack, went to the University Hospital Urgent Care in Westlake, Ohio where doctors confirmed that she suffered a laceration and contusion to her knee, bruises to her hands, and a sprained Achilles tendon.
16. At no time did Officer Engel have probable cause to arrest or otherwise seize Plaintiff from her home and property.
17. Officer Engel arrested Plaintiff under circumstances which would indicate to the reasonable officer that no arrest should be made and said arrest was a result of the training, motivational pressure exerted by his superiors and the policies of the Bay Village Police Department.

First Cause of Action Premised Upon Federal Illegal Seizure and False Arrest

18. Plaintiff incorporates the preceding paragraphs of this complaint as if fully rewritten herein.

19. Officer Engel's arrest of Plaintiff was illegal, unreasonable, without probable cause, and violated Plaintiff's rights under at the Fourth and Fourteenth Amendments to the United States Constitution.
20. Officer Engel's actions were taken under color of state law and were willful, wanton, malicious, and/or in reckless and deliberately indifferent disregard of Plaintiff's rights.
21. As a direct and proximate result of Defendants' conduct the Plaintiff has suffered, and continues to suffer injury for which she is entitled to recover damages from Defendants' under 42 U.S.C. 1983.

Second Cause of Action Premised Failure to Train or Supervise

22. Plaintiffs incorporate the preceding paragraphs of this complaint as if fully rewritten herein.
23. Defendant City of Bay Village Police Department did, with deliberate indifference to the rights of citizens including the Plaintiff, fail to train, continue to train and properly supervise its police officers, particularly Defendant Officer, Gregory Engel and in fact encouraged/motivated/trained him to make arrests with deliberate indifference to the rights of citizens.
24. As a direct and proximate result of Bay Village Police Department's failure to train and supervise Officer Engel, the Plaintiff's constitutional rights have been violated, she has been damaged and is entitled to monetary damages, injunctive and other requested relief against Defendant's City of Bay Village Police Department and Officer Engel.

Third Cause of Action for Federal Excessive Force

25. Plaintiff incorporates the preceding paragraphs of this complaint as if fully rewritten herein.
26. No probable cause existed to justify Officer Engel use of physical force upon Plaintiff.
27. Officer Engel intentionally and willfully exerted excessive force upon Plaintiff with wanton, malicious, and deliberate indifference to Plaintiff's rights when he unnecessarily and forcibly threw her to the ground, causing physical and emotional injury to Plaintiff.
28. When Officer Engel used excessive force upon Plaintiff, he was acting under color of state law, nevertheless violated Plaintiff's constitutionally protected rights under the Fourth and Fourteenth Amendments to the United States Constitution.
29. As a direct and proximate result of Officer Engel's conduct, Plaintiff has suffered and continues to suffer injury for which she is entitled to recover damages from Defendants Officer Engel and the City of Bay Village Police Department under 42 U.S.C. 1983.

Fourth Cause of Action for State Civil Liability for Criminal Conduct

30. Plaintiff incorporates the preceding paragraphs of this complaint as if fully rewritten herein.
31. Defendant Gregory Engel's conduct violates Ohio State Law, ORC §2903.13 (Assault) and / or ORC §2905.03 (Unlawful Restraint).

32. Defendant Gregory Engel is therefore liable to Plaintiff for civil damages for his criminal conduct pursuant to ORC §2307.60 including compensatory damages, punitive damages, costs and attorney fees.
33. The actions of Defendant Gregory Engel were willful, wanton, and malicious. As a result, Plaintiff is entitled to punitive damages at common law and as set forth in ORC §2315.21

WHEREFORE, Plaintiff Brittany M. Dudas requests the Court to award judgment in her favor as follows:

A. On Causes of Actions I, and III and IV an award of compensatory and punitive damages against Defendant Officer Gregory Engel, in an amount to be proven at trial, plus the costs of this litigation, her attorney fees, prejudgment interest, together with any and all other relief, legal or equitable or of any kind whatsoever, to which he is entitled;

B. On Cause of Action II, injunctive relief against Defendant City of Bay Village Police Department, compensatory damages, the costs of this litigation, her attorney fees, prejudgment interest, together with any and all other relief, legal or equitable or of any kind whatsoever, to which he is entitled.

Respectfully submitted,

James V. Barilla, Esq. (0059324)
Counsel for Plaintiff
32366 Birchwood Lane
Avon Lake, Ohio 44012
Phone: (440) 933-0919
Cell Phone: (440)-396-5150
Fax: (440) 965-0719
OhioFamilyLawyer@yahoo.com

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues raised in their complaint as set forth in this pleading.

James V. Barilla, Esq. (0059324)
Attorney for Plaintiff

TO THE CLERK OF COURTS:

Please serve the defendant by certified mail, return receipt requested, at the above addresses.

James V. Barilla, Esq. (0059324)
Counsel for Plaintiff
32366 Birchwood Lane
Avon Lake, Ohio 44012
Phone: (440) 933-0919
Cell Phone: (440)-396-5150
Fax: (440) 965-0719
OhioFamilyLawyer@yahoo.com